

1 Hon. Robert S. Lasnik
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 RHEGAN PATRICK and GRIFFIN
10 PATRICK,
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Plaintiffs,

12 v.
13 JAMES S. ROGERS d/b/a LAW OFFICES
14 OF JAMES S. ROGERS,
15

Defendant.

16 LAW OFFICES OF JAMES S. ROGERS, a
17 Washington sole proprietor,
18

Plaintiff,

19 v.
20 GRIFFIN PATRICK, an individual; and
21 RHEGAN PATRICK, an individual and as
22 Special Administrator of the Estate of
23 Wendy Elizabeth Hewitt,
24

Defendants.

No. 2:13-cv-01314RSL
(Consol. with Case
No. 2:13-cv-01319RSM)

DEFENDANT'S ANSWER TO
COMPLAINT FOR
DETERMINATION OF
REASONABLE AMOUNT OF
ATTORNEY'S FEES

25 Plaintiffs/Defendants James S. Rogers and Law Offices of James S. Rogers
26 ("Rogers"), through his attorneys, answers the averments of the complaint of
27 Defendants/Plaintiffs Griffin Patrick and Rhegan Patrick (collectively, the "Patricks"), as
28 follows:

I. PARTIES

1.0 Admit.

1.1 Admit.

1.2 Admit.

II. JURISDICTION AND VENUE

2.0 Admits that jurisdiction is proper in this Court. To the extent that paragraph 2.0 alleges anything other than that jurisdiction is proper, Rogers denies the averments of paragraph 2.0 or does not have information sufficient to form a belief as to the truth of the averments of paragraph 2.0.

2.1 Admits that venue is proper in this Court. To the extent that paragraph 2.1 alleges anything other than that jurisdiction is proper, Rogers denies the averments of paragraph 2.1 or does not have information sufficient to form a belief as to the truth of the averments of paragraph 2.1.

III. FACTS

3.0 Admit.

3.1 Denies the averments set forth in paragraph 3.1.

3.2 Denies the averments set forth in the first sentence of paragraph 3.2.

Rogers admits the Contingent Fee Agreement provides for a 25 percent contingency fee and provides that “Client . . . may petition the court for a determination of the reasonableness of the Attorneys’ fee.” Rogers denies the remaining averments contained in paragraph 3.2.

3.3 Admits the averments set forth in the first sentence of paragraph 3.3.

Rogers denies the averments set forth in the second sentence of paragraph 3.3.

3.4 States that no response is required to a quotation from a statute, except notes that the statute cited (Nev. Rev. Stat. 41.0185(2)) does not exist. Nev. Rev. Stat. § 41.085(2) states: "When the death of any person, whether or not a minor, is caused by the

1 wrongful act or neglect of another, the heirs of the decedent and the personal
 2 representatives of the decedent may each maintain an action for damages against the
 3 person who caused the death, or if the wrongdoer is dead, against the wrongdoer's
 4 personal representatives, whether the wrongdoer died before or after the death of the
 5 person injured by the wrongdoer."

6 3.5 Admits he represented Griffin but denies the remaining averments set forth
 7 in paragraph 3.5.

8 3.6 Admits he is an experienced trial attorney but denies the remaining
 9 averments set forth in paragraph 3.6.

10 3.7 Denies the averments set forth in paragraph 3.7.

11 3.8 Admits the averments set forth in the first sentence of paragraph 3.8.

12 Rogers states that the Claim Form speaks for itself and denies the remaining averments set
 13 forth in paragraph 3.8.

14 3.9 Denies the averments set forth in paragraph 3.9.

15 3.10 Denies the averments set forth in the first sentence of paragraph 3.10.

16 Rogers admits the averments set forth in the second sentence of paragraph 3.10.

17 3.11 Admit.

18 3.12 Admit.

19 3.13 Admits the averments set forth in the first sentence of paragraph 3.13.

20 Rogers denies the averments set forth in the second sentence of paragraph 3.13. Rogers
 21 admits the averments set forth in the third sentence of paragraph 3.13.

22 3.14 Admit.

23 3.15 Admit.

24 3.16 Admits that he has claimed fees for the RARA settlement in the amount of
 25 \$521,014.80 plus an additional 25 percent for the Leeward Estate settlement, and the 2013

1 and 2014 holdbacks, and any and all future recoveries, but denies the remaining averments
 2 set forth in paragraph 3.16.

3 **IV. CAUSE OF ACTION**

4 4.0 Admit.

5 4.1 Denies the averments set forth in paragraph 4.1.

6 4.2 Admits the averments in the first paragraph numbered 4.2.

7 4.2 Concerning the second paragraph numbered 4.2, Rogers denies that he
 8 violated the RPCs but admits the Patricks are entitled to a hearing.

9 **V. DEMAND FOR TRIAL BY JURY**

10 5.0 Denies that the Patricks are entitled to a jury as alleged in paragraph 5.0.

11 **RESPONSE TO PRAYER FOR RELIEF**

12 Rogers states that paragraphs A.-E. on page 10 of the Patricks' complaint is a
 13 request for relief to which no response is required. To the extent a response is required,
 14 Rogers admits that the Patricks are entitled to a determination of the amount of fees due to
 15 Rogers but deny that the Patricks are entitled to any further requested relief.

16 **AFFIRMATIVE DEFENSES**

17 Rogers further responds to the Patricks' complaint by asserting the following
 18 defenses or affirmative defenses:

19 1. The Patricks' claims are barred by the doctrine of waiver and estoppel.

20 2. The Patricks' claims are barred by the doctrines of laches and delay.

21 3. The Patricks' claims are barred by the doctrine of recovery for the common
 22 fund.

23 4. The Patricks' claims are barred by the doctrine of unclean hands.

ROGERS' PRAYER FOR RELIEF

WHEREFORE, having answered the Patricks' Complaint, Rogers prays for the following relief:

- A. For dismissal of the Patricks' Complaint with prejudice;
- B. For an award of Rogers' reasonable attorney fees and costs incurred in defending the Patricks' Complaint; and
- C. For such other and further relief as the Court deems just and equitable.

DATED this 30th day of September, 2013.

McNAUL EBEL NAWROT & HELGREN PLLC

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By: s/Daniel M. Weiskopf

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record who receive CM/ECF notification.

DATED: September 30, 2013.

By: s/Daniel M. Weiskopf
Daniel M. Weiskopf, WSBA No. 44941